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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/004,522	11/01/2001	Mazen H. Hanna	0114.00	4387	
21968	7590 04/03/2	3			
NEKTAR THERAPEUTICS			EXAM	EXAMINER	
150 INDUSTRIAL ROAD SAN CARLOS, CA 94070		BENNETT, RACHEL M			
			ART UNIT	PAPER NUMBER	
			1615	·	

DATE MAILED: 04/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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INHALE THERAPEUTIC SYSTEMS, INC 150 INDUSTRIAL ROAD SAN CARLOS, CA 94070			EXAMINER		
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\* Restarted due to mail was returned because no footage Was on enuclope, Festarted 4-3-03. B. Hron 4/2/pg

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Edaminism of time maple variable under the provision of 3° CFR 1.35(q). In on event, however, may a reply be limitly filed Edaminism of time maple variable under the provision of 3° CFR 1.35(q). In on event, however, may a reply be limitly filed  If the period for reply separation doors, the maximum of 3° CFR 1.35(q). In or event, however, may a reply be limitly filed  If the period for reply separation of the state that the period of the commondation, were timely filed, may refuse any counted plant time adjustment. See 37 CFR 1.76(d).  Status  1) Responsive to communication(s) filed on 16 December 2002  2a) This action is FINAL  2b) This action is non-final.  3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-42 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  5) Claim(s) is/are allowed.  7) Claim(s) is/are allowed.  8) Claim(s) 1-42 are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  11 approved corrected drawings are required in reply to this Office action.  12 The roposed drawing correction filed on is/are: a) approved by disapproved by the Examiner.  12 approved, corrected drawings are required in reply to this Office action.  13 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  14 Acknowledgment is made of	,	Application No. Applicant(s)					
Rachel M. Bennett The MAILING DATE of this communication appears on the cover sheet with the correspond new address  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Entermotine of the price of the properties of the price of th		10/004,522	HANNA ET AL.				
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THE MAILING DATE OF THIS COMMUNICATION.  Elementor of time may be available under the provision of 30°CPR 1.15(6). In an event, however, may a reply be timely filed after SX (6) MONTHS from the mailing date of this communication.  It is a provision of the provision of the communication of the communica	The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	correspond nce address				
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3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6) Other:	1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal					

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#### **DETAILED ACTION**

#### Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claim1-20, 40 drawn to a method of preparing particles, classified in class 264, subclass 11.
  - II. Claims 20-39, 41-42, drawn to a particulate coformulation, classified in class 424, subclass 489.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and Group II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the particles may be prepared by a materially different process such as, a method comprising: (a) introducing into a particle formation chamber, the temperature and pressure in which are controlled, a first supercritical fluid and a solution or suspension of the substance in a vehicle; (b) simultaneously introducing, into the particle formation chamber, an impinging flow of a second supercritical fluid, at an angle to, and directed at, the direction of flow of the first supercritical fluid, the first and second supercritical fluids entering the particle formation chamber separately; and (c) using either or both of the first and second supercritical fluids to disperse the solution or suspension, and to extract the vehicle from it, substantially

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simultaneously and substantially immediately on introduction of the fluids into the particle formation chamber.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

2. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel M. Bennett whose telephone number is (703) 308-8779. The examiner can normally be reached on Monday through Friday, 8:00 A.M. to 4:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (703) 308-2927. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 305-3592 for regular communications and (703) 308-7924 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

R. Bennett January 7, 2003

THURMATUK, PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600